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EXAMINER

EVANSKO, LESLIE J

ART UNIT

PAPER NUMBER

2854

MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/561,584

Applicant(s)

KORTHAUER, MANFRED

Examiner

Leslie J. Evanisko

Art Unit

2854

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) 2-5, 8, 13 and 14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 6, 7 and 9-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 December 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 12/19/05 & 10/01/07
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Group IV, claims 1, 6, 7, and 9-12 in the reply filed on September 29, 2008 is acknowledged. The traversal is on the ground(s) that claim 1 is allowable over the cited art of US 5,967,040 and WO 01/85548. This is not found persuasive because it is the Examiner's position that claim 1 is not allowable over the cited art, as set forth in the prior art rejection below. In particular, it is noted that applicant's arguments regarding the differences between claim 1 and the prior art references is much more specific than the claim language and therefore applicant is arguing features that are not found in the claims. For example, claim 1 does not require there to be no relative movement between the printhead and counter pressure surface. It merely recites the counterpressure surface "forms part" of the print head and this language is very broad and can be interpreted to include a print head that moves relative to the counterpressure surface. Particular attention is invited to the prior art rejection set forth below.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 2-5, 8, and 13-14 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected inventions, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on September 29, 2008.

Priority

3. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Drawings

4. The replacement sheet of drawings was received on December 19, 2005. These drawings are approved by the Examiner.
5. The drawings are objected to because it appears that the sheet of drawings including Figures 3 and 4 is missing from the application file. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and

informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

6. The abstract of the disclosure is objected to because of the following informalities: It uses the language "The invention relates to" which is language that should be avoided in an abstract. Additionally, it is suggested that the last line of the abstract, which states that Fig. 2 is intended for publication, be deleted. Correction is required. See MPEP § 608.01(b).

7. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should **avoid** using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Claim Objections

8. Claims 1, 6-7, 9-12 are objected to because of the following informalities:

With respect to claim 1, in line 2, it is unclear whether the phrase beginning with "in particular..." is intended to be a recited structural element of the claim or not. Also,

the term "each liner strip" in line 4 has no proper antecedent basis. Additionally, the term "the liner strip" in line 6 is confusing since it appears that applicant is attempting to recite a plurality of liner strips in line 4 and in line 6 refers to a single liner strip. In line 8, it is suggested that the term "a sheet element" be deleted and replaced with -- each sheet element-- since a plurality of sheet elements were previously recited.

Appropriate correction and/or clarification is required.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1, 6-7, and 9-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Korthäuer et al. (US 5,967,040).

With respect to claim 1, Korthäuer et al. teach a printing device 1 for printing sheet elements (i.e., labels 10) serially fed to the printing device comprising at least two separate feed devices 2a, 2b, 2c, 12a, 12b, 12c for each liner strip comprising the sheet elements 10, each feed device comprising a peeling-off device 6a, 6b, 6c for peeling the sheet elements from each liner strip, wherein the feed devices are associated with a print head 8, 13 with a thermal slat for printing each sheet element 10 supported by a counterpressure surface (the upper supporting surface of the elements 6a, 6b, 6c) and comprising an application device 9, 11 for removing the printed sheet element from the

print head and applying the printed sheet element to a product, characterized in that the counterpressure surface forms part of the print head. Note that the counterpressure surface can be considered to “form” part of the print head as broadly recited since these two elements are part of a larger machine and have to be used together to result in proper printing of the labels.

With respect to claim 9, Korthäuer et al. teach a single print head 8, 13 is associated with the feed devices 2a, 2b, 2c, 12a, 12b, 12c and the association of the print head with the feed devices takes place via an adjustment device (i.e., the movement mechanism that allows for relative movement between print head and feed devices).

With respect to claims 6-7, Korthäuer et al. teach the feed devices 2a, 2b, 2c, 12a, 12b, 12c are arranged vertically, one on top of the other (see Fig. 1) and the application device is embodied as a stamp 11 that can move in a vertical direction.

With respect to claim 10, note Korthäuer et al. teach the application device 11 is coupled to the adjustment device (movement mechanism for 13).

With respect to claim 11, note Korthäuer et al. teach that the application device 11 and the adjustment device can be moved independently from the other along a single axis (i.e., the adjustment device moves along a horizontal axis while the application device moves independently along a vertical axis).

With respect to claim 12, note Korthäuer et al. teach that an additional application device (i.e., conveying strips 5a, 5b, 5c) removes the labels 10 from the feed devices 2a, 2b, 2c, 12a, 12b, 12c and feeds them to the print head 8, 13.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Leslie J. Evanisko** whose telephone number is **(571) 272-2161**. The examiner can normally be reached on T-F 8:00 am-6:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Nguyen can be reached on (571) 272-2258. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ Leslie J. Evanisko /
Leslie J. Evanisko
Primary Examiner
Art Unit 2854

lje
February 1, 2009